Please amend the application as follows:

In the Claims

Please amend Claims 1-20. Amendments to the claims are indicated in the attached "Marked Up Version of Amendments" (pages i - iii).

1.   (Amended) In a system for transmitting audio over a data network; and wherein received audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi-silence, an apparatus for determining if a data packet contains one of two types of audio, non-speech audio or speech audio comprising:

a non-speech detection module which identifies the type of audio received as a data stream;

an add header routine which stores a non-speech identifier with the audio in the data packet, the non-speech identifier being stored in a header in the data packet; and

a remove header routine which detects the state of the non-speech identifier in the header of the received data packet to determine if non-speech audio is stored in the payload of the data packet, whereupon the jitter buffer latency can be modified.

2.   (Amended) The apparatus as claimed in Claim 1 wherein the non-speech identifier is a one bit field included in the header in the data packet.

3.   (Amended) The apparatus as claimed in Claim 2 wherein the non-speech identifier is stored in a Real-time Transport Protocol header.

4.   (Amended) The apparatus as claimed in Claim 3 wherein the non-speech identifier is set to a first of two states if the data packet contains non-speech audio.

5.   (Amended) The apparatus as claimed in Claim 3 wherein the non-speech identifier is set to a second state if the data packet contains speech audio.

6.   (Amended) The apparatus as claimed in Claim 1 wherein the remove header routine determines from the state of the non-speech identifier that speech audio is included in the data packet whereupon the jitter buffer latency modification is disabled.

7.   (Amended) An apparatus for determining if a data packet contains non-speech audio or speech audio comprising:

      means for storing a non-speech identifier with the non-speech audio in the data packet, the non-speech identifier being stored in a header in the data packet; and

      means for detecting the non-speech audio stored in the payload of the data packet dependent on the state of the non-speech identifier in the header of the received data packet.

8.   (Amended) The apparatus as claimed in Claim 7 wherein the non-speech identifier is a one bit field included in the header in the data packet.

9.   (Amended) The apparatus as claimed in Claim 8 wherein the non-speech identifier is stored in a Real-time Transport Protocol header.

10.   (Amended) The apparatus as claimed in Claim 9 wherein the non-speech identifier is set to a first of two states if the data packet contains non-speech audio.

11.   (Amended) The apparatus as claimed in Claim 9 wherein the non-speech identifier is set to a second state if the data packet contains speech audio.

12.   (Amended) The apparatus as claimed in Claim 7 wherein upon detection of the non-speech audio the means for detecting enables jitter buffer latency modification.

13.   (Amended) The apparatus as claimed in Claim 7 wherein upon detection of the non-speech audio the means for detecting disables jitter buffer latency modification.

14.   (Amended) In a system for transmitting audio over a data network; and wherein audio packets are stored in a jitter buffer in a receiver and read from the jitter buffer at a rate dependent on a jitter buffer latency which can be modified during periods of quasi-

silence, a method for identifying a data packet containing one of two types of audio, non-speech audio or speech audio comprising the steps of:

generating a non-speech identifier which identifies which type of audio is in the packet;

storing, by an add header routine, the non-speech identifier with the audio in the data packet, the non-speech identifier being stored in a header in the data packet; and

detecting, by a remove header routine, the state of the non-speech identifier in the header of the received data packet to determine if non-speech audio is stored in the payload of the data packet, whereupon the jitter buffer latency can be modified.

15.   (Amended) The method as claimed in Claim 14 wherein the non-speech identifier is a one bit field included in a header in the data packet. .

16.   (Amended) The method as claimed in Claim 15 wherein the non-speech identifier is stored in a Real-time Transport Protocol header.

17.   (Amended) The method as claimed in Claim 16 wherein the non-speech identifier is set to a first of two states if the data packet contains non-speech audio.

18.   (Amended) The method as claimed in Claim 16 wherein the non-speech identifier is set to a second state if the data packet contains speech audio.

19.   (Amended) A computer program product for determining if a data packet contains non-speech or speech audio, the computer program product comprising a computer usable medium having computer readable code thereon, including program code which:

stores a non-speech identifier with the non-speech audio in the data packet, the non-speech identifier being stored in a header in the data packet; and

detects non-speech audio stored in the payload of the data packet dependent on the state of the non-speech identifier in the header of the received data packet.

20.   (Amended) An apparatus for determining if a data packet contains non-speech audio or speech audio comprising:

a transmitter, the transmitter comprising:

an add header routine which stores a non-speech identifier with the